

SHORT TITLE

Section 1 of Pub. L. 91-173, as amended by Pub. L. 95-164, title I, §101, Nov. 9, 1977, 91 Stat. 1290, provided: "That this Act [which was known as the Federal Coal Mine Health and Safety Act of 1969 prior to the amendment by Pub. L. 95-164 and which enacted this chapter, amended sections 633 and 636 of Title 15, Commerce and Trade, repealed sections 451 to 460 and 471 to 483 of this title, and enacted provisions set out as notes under this section and section 636 of Title 15] may be cited as the 'Federal Mine Safety and Health Act of 1977'."

For short title of subchapter IV of this chapter as the "Black Lung Benefits Act", see section 901(b) of this title.

SEPARABILITY

Section 510 of Pub. L. 91-173 provided that: "If any provision of this Act [see Short Title note set out above], or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

§ 802. Definitions

For the purpose of this chapter, the term—

(a) "Secretary" means the Secretary of Labor or his delegate;

(b) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof;

(c) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine;

(e) "agent" means any person charged with responsibility for the operation of all or a part of a coal or other mine or the supervision of the miners in a coal or other mine;

(f) "person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization;

(g) "miner" means any individual working in a coal or other mine;

(h)(1) "coal or other mine" means (A) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (B) private ways and roads appurtenant to such area, and (C) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities. In

making a determination of what constitutes mineral milling for purposes of this chapter, the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment;

(2) For purposes of subchapters II, III, and IV of this chapter, "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

(i) "work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) "imminent danger" means the existence of any condition or practice in a coal or other mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) "accident" includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person;

(l) "mandatory health or safety standard" means the interim mandatory health or safety standards established by subchapters II and III of this chapter, and the standards promulgated pursuant to subchapter I of this chapter;

(m) "Panel" means the Interim Compliance Panel established by this chapter; and

(n) "Administration" means the Mine Safety and Health Administration in the Department of Labor.

(o) "Commission" means the Federal Mine Safety and Health Review Commission.

(Pub. L. 91-173, §3, Dec. 30, 1969, 83 Stat. 743; Pub. L. 95-164, title I, §102(b), Nov. 9, 1977, 91 Stat. 1290.)

AMENDMENTS

1977—Par. (a). Pub. L. 95-164, §102(b)(1), substituted "Secretary of Labor" for "Secretary of the Interior".

Par. (d). Pub. L. 95-164, §102(b)(2), (4), substituted "supervises a coal or other mine or any independent contractor performing services or construction at such mine" for "supervises a coal mine".

Pars. (e), (g). Pub. L. 95-164, §102(b)(4), inserted "or other" after "coal" wherever appearing.

Par. (h). Pub. L. 95-164, §102(b)(3), added subpar. (1), designated existing provisions as subpar. (2), and inserted "For purposes of subchapters II, III, and IV of this chapter," after "(2)".

Par. (j). Pub. L. 95-164, §102(b)(4), inserted "or other" after "coal".

Pars. (n), (o). Pub. L. 95-164, §102(b)(5), added pars. (n) and (o).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC
ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 803. Mines subject to coverage

Each coal or other mine, the products of which enter commerce, or the operations or products of which affect commerce, and each operator of such mine, and every miner in such mine shall be subject to the provisions of this chapter.

(Pub. L. 91-173, § 4, Dec. 30, 1969, 83 Stat. 744; Pub. L. 95-164, title I, § 102(c), Nov. 9, 1977, 91 Stat. 1291.)

AMENDMENTS

1977—Pub. L. 95-164 inserted “or other” after “coal”.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

§ 804. Interim Compliance Panel

(a) Establishment; composition

There is hereby established the Interim Compliance Panel, which shall be composed of five members as follows:

- (1) Assistant Secretary of Labor for Labor Standards, Department of Labor, or his delegate;
- (2) Director of the National Institute of Standards and Technology, Department of Commerce, or his delegate;
- (3) Administrator of Consumer Protection and Environmental Health Service, Department of Health and Human Services, or his delegate;
- (4) Director of the United States Bureau of Mines, Department of the Interior, or his delegate; and
- (5) Director of the National Science Foundation, or his delegate.

(b) Compensation; travel and subsistence expenses

Members of the Panel shall serve without compensation in addition to that received in their regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Panel.

(c) Cooperation of Federal agencies

Notwithstanding any other provision of law, the Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of the Interior, and the Secretary shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this chapter.

(d) Quorum; voting; selection of chairman

Three members of the Panel shall constitute a quorum for doing business. All decisions of the Panel shall be by majority vote. The chairman of the Panel shall be selected by the members from among the membership thereof.

(e) Appointment of administrative law judges; provisions applicable

The Panel is authorized to appoint as many administrative law judges as are necessary for proceedings required to be conducted in accordance with the provisions of this chapter. The provisions applicable to administrative law judges appointed under section 3105 of title 5 shall be applicable to administrative law judges appointed pursuant to this subsection.

(f) Functions; hearings; notice and review; termination; annual report

(1) It shall be the function of the Panel to carry out the duties imposed on it pursuant to this chapter and to provide an opportunity for a public hearing, after notice, at the request of an operator of the affected coal mine or the representative of the miners of such mine. Any operator or representative of miners aggrieved by a final decision of the Panel may file a petition for review of such decision under section 816 of this title. The provisions of this section shall terminate upon completion of the Panel's functions as set forth under this chapter. Any hearing held pursuant to this subsection shall be of record and the Panel shall make findings of fact and shall issue a written decision incorporating its findings therein in accordance with section 554 of title 5.

(2) The Panel shall make an annual report, in writing, to the Secretary for transmittal by him to the Congress concerning the achievement of its purposes, and any other relevant information (including any recommendations) which it deems appropriate.

(Pub. L. 91-173, § 5, Dec. 30, 1969, 83 Stat. 744; Pub. L. 95-164, title I, § 102(d), Nov. 9, 1977, 91 Stat. 1291; Pub. L. 95-251, § 2(a)(9), Mar. 27, 1978, 92 Stat. 183; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100-418, title V, § 5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102-285, § 10(b), May 18, 1992, 106 Stat. 172.)

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “Bureau of Standards”.

1978—Subsec. (e). Pub. L. 95-251 substituted “administrative law judges” for “hearing examiners” wherever appearing.

1977—Subsec. (c). Pub. L. 95-164 substituted “Secretary of the Interior” for “Secretary of Labor”.

CHANGE OF NAME

“United States Bureau of Mines” substituted for “Bureau of Mines” in subsec. (a)(4) pursuant to section 10(b) of Pub. L. 102-285, set out as a note under section 1 of this title.

“Department of Health and Human Services” substituted for “Department of Health, Education, and Welfare” in subsec. (a) and “Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (c) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.